

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

REC'D 03 SEP 2005

PCT

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To:

see form PCT/ISA/220

20/10

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/EP2005/003616

International filing date (day/month/year)
06.04.2005

Priority date (day/month/year)
08.04.2004

International Patent Classification (IPC) or both national classification and IPC
A61B17/17, A61B19/00

Applicant
TELEIOS S.R.L.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1b/s(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office
D-80298 Munich
Tel. +49 89 2399 - 0 Tx: 523656 epmu d
Fax: +49 89 2399 - 4465

Authorized Officer

Lager, J

Telephone No. +49 89 2399-2957



**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2005/003616

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
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International application No.
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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	2-12
	No: Claims	1
Inventive step (IS)	Yes: Claims	See Separate Sheet
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-12
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Section V.

1. See Section VIII below.
2. The subject-matter of claim 1 is not novel, Article 33(2) PCT, over the teaching and disclosure of WO-A-03/043485 (=D1), see citations in the search report.
- 2.1 Furthermore, the subject-matter of claim 1 is not novel, Article 33(2) PCT, over the teaching and disclosure of US-B1-6285902 (=D2), see citations in the search report.
3. The combination defined in dependent claims 2-6 (see Section VIII below) appears to fulfil the requirements of Article 33(2)-(4) PCT.
- 3.1 In claims 7-11 slight constructional changes are defined which appear not contribute enough to provide an inventive step over either of D1 or D2 (see also Section VIII below).

Section VII.

1. The independent claims 1 and 12 do not fulfil the requirements of Rule 6.3(b) PCT since they are not drafted in the two part from over the teaching of D1.
2. The features of the claims are not provided with reference signs placed in parentheses, Rule 6.2(b) PCT.

Section VIII.

1. The scope of claim 1 is too broad, Article 6 PCT, when having regard to the wording of the description. It is agreed that the advantages referred to in the description on page 4, lines 18-26, is not solved in either of D1 or D2. However the essential technical features enabling these advantages are not presently defined in claim 1. It appears that the essence of the present application lies in the provision of the movable device (items 3-20) disclosed in figures 3, 4 and 6-12, cf. claims 2-6 and 12.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/EP2005/003616

2. Although claims 1 and 12 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter, i.e. overlapping scope. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.

In order to overcome the lack of conciseness and to avoid any possible unity objection, claim 12 should be reformulated to contain a clear back-reference to the previously defined pointing apparatus. At the moment the pointing apparatus referred to in claim 12 is not identical with the one defined in claim 1.

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